

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**RICHARD K. PERRELLI,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 2:09cv46**

**MICHAEL J. ASTRUE,  
COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,**

**Defendant.**

**ORDER**

It will be recalled that on September 10, 2009, Plaintiff filed an Application for Attorney's Fees under the Equal Access to Justice Act; on September 24, 2009, the Defendant filed a Brief in Opposition to Plaintiff's Petition for Attorney Fees; and on October 2, 2009, the Plaintiff filed Reply of Plaintiff to Defendant's Brief in Opposition to Plaintiff's Petition for Attorney's Fees. On October 26, 2009, Magistrate Judge David J. Joel filed his Report and Recommendation, wherein he recommended granting in part and denying in part the Plaintiff's Motion for Attorney Fees. The parties were directed in Magistrate Judge Joel's Report and Recommendation to file with the Clerk of Court any written objections within ten (10) days after being served with a copy. No objections have been filed. Accordingly, the Court will review the Magistrate's Report and Recommendation for clear error.<sup>1</sup>

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<sup>1</sup>The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Upon examination of the Report and Recommendation filed by the Magistrate Judge, it appears to the Court that the issues raised in the Application for Attorney Fees, the Response filed in opposition thereto, and the Reply were thoroughly considered by Magistrate Judge Joel. The Court, reviewing all matters now before it for clear error, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this matter. Therefore, it is hereby

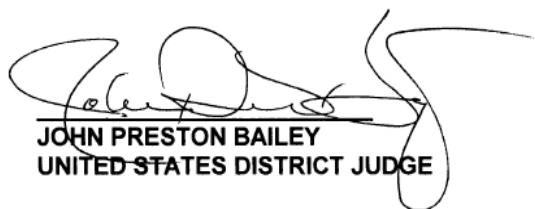
**ORDERED** that Magistrate Judge Joel's Report and Recommendation of October 26, 2009 shall be, and the same hereby is, accepted in whole. Accordingly, for the reasons set forth in the Magistrate Judge's Report and Recommendation, it is

**ORDERED** that the Plaintiff's Application for Attorney Fees under the Equal Access to Justice Act shall be, and the same hereby is **GRANTED IN PART AND DENIED IN PART**. More specifically, it is

**ORDERED** that, in accordance with Magistrate Judge Joel's Report and Recommendation, Defendant shall pay to Plaintiff's attorney Five Thousand Seventy-Nine dollars and 19 cents (\$5,079.19) in attorney fees.

The Clerk of Court is directed to send a copy of this Order to all counsel of record.

**ENTER:** March 15, 2010



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE